



Military Police
Complaints
Commission

Commission d'examen
des plaintes concernant
la police militaire

ANNUAL REPORT 2011

Oversight

in Action

The word 'Canada' in a serif font, with a small crown above the letter 'a'.

Canada

Civilian oversight
promotes confidence in
the investigative process
and ensures impartiality
and fairness for both
complainants and members
of the Military Police.

Acknowledgement:

The Commission would like to acknowledge Ms. Silvia Pecola and the Department of National Defence for their artwork and images used in the production of this Annual Report.

For an electronic version of the publication, please consult the MPCC website at mpcc-cppm.gc.ca

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Letter of Transmission to the Minister

March 31, 2012

The Honourable Peter Gordon MacKay, P.C., M.P.
Minister of National Defence
National Defence Headquarters
MGen George R. Pearkes Building
Ottawa ON K1A 0K2

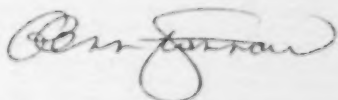
Dear Minister:

In accordance with section 250.17(1) of the *National Defence Act*, it is my duty and privilege to submit for tabling in Parliament the Military Police Complaints Commission Annual Report for 2011.

In this Annual Report, you will find a detailed discussion of all significant aspects of the Commission's activities during 2011, including summaries of some of its reviews and investigations of complaints.

All of which is respectfully submitted.

Yours truly,



Glenn M. Stannard, O.O.M.
Chairperson



An oversight body is an answer for the demand of
transparency and accountability and ultimately,
confidence in policing services.

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Chairperson's Message

I am pleased to introduce the 2011 Annual Report for the Military Police Complaints Commission [the Commission] which reflects another interesting year of positive progress and achievement by the Commission operationally and administratively.

In addition to investigating conduct and interference complaints, the Commission completed the evidentiary portion of the Afghanistan Public Interest Hearing relating to what has been referred to as the "failure to investigate" complaint by Amnesty International Canada and the British Columbia Civil Liberties Association. This complaint alleged members of the Military Police failed to investigate Canadian Forces Commanders having authority for transferring detainees to the Afghanistan authorities in the face of a known risk of torture. Final oral submissions were heard on February 2, 2011 following which the Commission began its consideration of those submissions, along with the whole of the evidence, and initiated the drafting of the Interim Report. On December 21, 2011, the hearing panel produced its Interim Report which was transmitted to the Minister of National Defence, the Chief of Defence Staff, the Judge Advocate General and the Canadian Forces Provost Marshal. The Commission now awaits the response, after which the Commission's Final Report will be produced.

On April 29, 2011, I made the decision to launch a Public Interest Investigation into the conduct of the Military Police investigations related to the death of Corporal Stuart Langridge following a

complaint filed by his parents, Mr. Shaun and Mrs. Sheila Fynes. Corporal Langridge committed suicide on March 15, 2008 at Canadian Forces Base/Area Support Unit, Edmonton. The complainants made several serious allegations, including that the Canadian Forces National Investigation Service investigation conducted immediately after their son's death was not conducted in an impartial way and tarnished their son's reputation in an attempt to protect his Canadian Forces chain of command. Mr. and Mrs. Fynes also complained about a significant delay in advising them of the suicide note their son had left for them, and about a lack of information and delay in conducting subsequent investigations. Following a review of documentary materials and an interview with the complainants, I concluded that the nature of the issues raised in the complaint made the holding of a Public Interest Hearing not only warranted in the public interest but necessary in order to properly investigate this complaint. A case conference was held on October 19, 2011 to deal with preliminary issues and a date of February 27, 2012 was set for the commencement of hearings.

The Commission made comprehensive submissions in relation to the Second Independent Review of the *National Defence Act* (C-25), chaired by the

“I firmly believe policing is policing. In the civilian world, they serve the community and its citizens. In your world, as soldiers and Military Police members... you simultaneously serve your country, as Canadian Forces members, and your communities, as police. I recognize that in many ways your service can be more complicated.”

Glenn Stannard, Chairperson in addressing a group of Military Police members

Honourable Patrick J. LeSage, retired Chief Justice of the Ontario Superior Court, which outlined Commission proposals in four areas: the scope of oversight; the Commission's access to information; fair and efficient procedures; and Military Police independence. On October 26, 2011, the Commission also made a written submission to the House of Commons Standing Committee on National Defence expressing its concern regarding a provision in Bill C-15 – *Strengthening Military Justice in the Defence of Canada Act* which would expressly authorize the Vice Chief of the Defence Staff to direct the Canadian Forces Provost Marshal, the head of the Military Police, in the conduct of specific Military Police investigations.

Progress on these noteworthy files and projects, in addition to the Commission's regular workload in both operations and corporate administrative services, would not have been possible without the dedication of Commission staff. They deserve to be recognized for their many important contributions to ensuring the effectiveness and professionalism of Commission operations. I have also greatly appreciated the knowledgeable and expert contributions of the two Commission Members, Roy Berlinquette and Louis Bélanger. Mr. Bélanger's term expired in April 2011 and I would like to particularly thank him for his assistance and support during his term as a Commission Member.

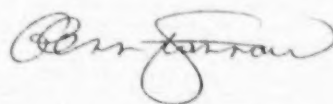
On December 23, 2011, two new Part-Time Commission Members were appointed to four-year terms, Mr. Hugh R. Muir from Nova Scotia and Mr. Steven Chabot from the province of Québec. Both of these individuals have had long and distinguished

careers in policing and I look forward to their professional contributions to assisting the Commission to meet its important oversight mandate.

In 2011, the Commission continued to reach out and work with its partners, stakeholders and the Government. The productive working relationship with the Canadian Forces Provost Marshal, the Deputy Commander Canadian Forces Military Police Group/Professional Standards, and the Professional Standards staff has greatly facilitated our work. In this regard, we were extremely pleased to have been invited to attend the April 1, 2011 Change of Command ceremony which saw the CFPM assume full command of all Military Police members who are directly involved in policing.

Again this year, we were gratified our Outreach Program was very well received. The Program included visits with Military Police members at eight (8) Canadian Forces bases and Family Resource Centres across Canada, and presentations to course participants at the Canadian Forces Military Police Academy, regarding the Commission's mission, mandate and complaints processes.

We look forward to continuing to effectively meet new challenges in the coming year.



Glenn M. Stannard, O.O.M.
Chairperson

OVERVIEW *part*

I. Military Police Complaints Commission

The Military Police Complaints Commission (the Commission) was established by the Government of Canada to provide independent civilian oversight of the Canadian Forces Military Police, effective December 1, 1999. This was achieved through an amendment to the *National Defence Act* (NDA), creating a new Part IV which sets out the mandate of the Commission and how complaints are to be handled. As stated in Issue Paper No. 8, which accompanied the Bill that created the Commission, its role is "to provide for greater public accountability by the military police and the chain of command in relation to military police investigations."

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“The process for resolving personnel complaints, whether generated internally or externally, must be transparent, fair, thorough and complete. Every complaint deserves some form of investigation and principled resolution.”

Merrick Bobb and John Spiegle, the Christopher Commission

II. Mandate and Mission

Mandate: The Commission reviews and investigates complaints concerning Military Police (MP) conduct and complaints of interference in MP investigations. The Commission reports its findings and makes recommendations directly to the MP and National Defence leadership.

Mission: To promote and ensure the highest standards of conduct of MP in the performance of policing duties and to discourage interference in any MP investigation.

The Commission fulfills its mandate and mission by exercising the following responsibilities:

- Monitoring investigations by the Canadian Forces Provost Marshal (CFPM) of MP conduct complaints;
- Reviewing the disposition of those complaints at the request of the complainant;
- Investigating complaints of interference; and,
- Conducting public interest investigations and hearings.

III. Organizational Background

The Commission is one of eight distinct but related organizations in the National Defence Portfolio. While it reports to Parliament through the Minister of National Defence (MND), the Commission is both administratively and legally independent from the Department of National Defence (DND) and the Canadian Forces (CF). The Commission is not subject to direction from the MND in respect of its operational mandate.

The Commission is an independent Federal government institution as defined under Schedule I.1 of the *Financial Administration Act*. As an independent oversight agency, the Commission must operate at a distance and with a degree of autonomy from government, including the DND and the CF. All members of the Commission are civilians and are independent of the DND and the CF in fulfilling their responsibilities and accountabilities in accordance with governing legislation, regulations and policies.

Tribunal decisions and Commission operations and administration must also be, and be seen to be, free from ministerial influence, other than seeking the signature of the MND, as the Minister responsible, to table the Commission's Reports on Plans and Priorities; Departmental Performance Reports; Annual Reports to Parliament; and other accountability documents such as Memoranda to Cabinet and Treasury Board Submissions.

Designated as Chief Executive Officer (CEO) of the Commission, the Chairperson is accountable for all Commission activities and for the achievement of results. Based on the Terms and Conditions of Employment for Full-Time Governor in Council (GIC) Appointees, the Chairperson has been designated as CEO, statutory deputy head or "Deputy Head" as defined by the *Financial Administration Act* and as designated through the GIC.

As Deputy Head, the Chairperson is accountable to Parliament for fulfilling management responsibilities, including financial management. This includes accountability for: allocating resources to deliver Commission programs and services in compliance with governing legislation, regulations and policies; exercising authority delegated by the Public Service

Commission for human resources; maintaining effective systems of internal controls; signing accounts in a manner that accurately reflects the financial position of the Commission; and exercising any and all other duties prescribed by legislation, regulations or policies relating to the administration of the Commission.

IV. The Canadian Forces Provost Marshal and the Deputy Commander Canadian Forces Military Police Group/ Professional Standards



MP independence is further enhanced with the CFPM now commanding the police in a unified chain of command.

April 1, 2011

The Commission has a crucially important, collaborative working relationship with the CFPM and the Deputy Commander Canadian Forces Military Police Group (DComd CF MP Gp). On April 1, 2011, the CFPM assumed full command of all MP members who are directly involved in policing. The CFPM also assigns MP elements to other supported commanders under operational command.

The DComd CF MP Gp oversees the evaluation of MP functions to ensure consistency with jurisprudence and accepted Canadian policing standards, manages public complaint and internal MP misconduct investigations, administers the MP Credentials Review Board and ensures adherence to the *Military Police Professional Code of Conduct*.

The CFPM is responsible for dealing with complaints about MP conduct in the first instance. The Commission has the authority both to monitor the steps taken by the CFPM as it responds to complaints,

and to conduct its own reviews and investigations, as required. The Commission has the exclusive authority to deal with interference complaints.

Commission recommendations for improvements, contained in its Interim and Final Reports, are not binding on the CF and DND. However, they do provide the opportunity to further enhance transparency and accountability. Fostering a mutually respectful working relationship between the Commission and the CFPM facilitates the conduct of complaint investigations and the likelihood that recommendations will be accepted and implemented. It is noteworthy that for the 6th year in a row, 100% of the Commission's recommendations have been accepted.

Detailed information on the conduct and interference complaints processes is contained in later sections of this report.

V. The Military Police

The Military Police Branch was formed in 1968 with the unification of the CF. MP members were allocated to the Army, Navy and Air Force. The stated Mission of the Canadian Forces MP is to contribute to the effectiveness and readiness of the CF and the DND through the provision of professional police, security and operational support services worldwide.

The Canadian Forces Military Police Branch is comprised of 2,000 plus personnel: 650 reservists and 1,400 sworn, credentialed members (officers and non-commissioned members), i.e. those members who are entitled to be in possession of an MP badge and identification card and thus peace officers by virtue of the *Queen's Regulations and Orders* for the Canadian Forces article 22.02, NDA s. 156 and *Criminal Code* s. 2.

The MP exercise jurisdiction within the CF, over both DND employees and civilians on DND property. The MP form an integral part of the military justice system in much the same way as civilian police act within the civilian criminal justice system. MPs routinely train and work with their civilian counterparts in the provision of police and security services to the CF and DND.

Members of the MP are granted certain powers under the NDA in order to fulfill their policing duties. For example, MP have the power to arrest, detain and search. The *Criminal Code* recognizes members of the MP as peace officers. They can make arrests and lay charges for offences pursuant to the NDA and the *Criminal Code*, and lay charges in civilian criminal courts.

VI. Conduct Complaints Process

Conduct Complaint Filed

Anyone may make a conduct complaint regarding the MP in the performance of their policing duties or functions, including those individuals not directly affected by the subject matter of the complaint. Such complaints are initially dealt with by the CFPM. Informal resolution is encouraged.

Complaint Investigated by the CFPM

As the CFPM investigates a complaint, the Commission monitors the process. At the conclusion of the investigation the CFPM provides a copy of their final disposition of the complaint to the Commission. The Commission may, at any time during the CFPM investigation, assume responsibility for the investigation or call a public hearing if it is deemed to be in the public interest.

Request for Review

Complainants can request the Commission review the complaint if they are not satisfied with the results of the CFPM's investigation or disposition of the complaint.

Commission Reviews Complaint

At a minimum, this process involves a review of documentation related to the CFPM's investigation. Most often, it also includes interviews with the

complainant, the subject of the complaint, and witnesses, as well as reviews of relevant legislation, and military and civilian police policies and procedures.

Commission Releases Interim Report

At the completion of the review, the Chairperson sends the Interim Report to the MND, the Chief of Defence Staff (CDS) and the CFPM setting out the findings and recommendations regarding the complaint.

Notice of Action

The Notice of Action is the official response by the CF to the Interim Report and it outlines what action, if any, has been or will be taken in response to the Commission's recommendations.

Commission Releases Final Report

After considering the Notice of Action, the Commission issues a Final Report of findings and recommendations. The Final Report is provided to the MND, the Deputy Minister (DM), the CDS, the Judge Advocate General (JAG), the CFPM, the complainant and the subject(s) of the complaint, as well as anyone who has satisfied the Commission that they have a substantial and direct interest in the case.

HOW THE COMMISSION CARRIES OUT ITS REVIEW/INVESTIGATION OF CONDUCT COMPLAINTS

In response to a request from a complainant for a review, the Commission follows the steps described below:

- Commission legal counsel conducts a preliminary review of the request for review and then briefs the Chairperson, who determines how to respond to the request, whether an investigation is required, the scope of the investigation warranted and how to approach the investigation.
- A lead investigator is assigned and, with Commission legal counsel, reviews the evidence and other materials gathered during the CFPM's investigation of the complaint – this could be hundreds of pages of documents, emails, handwritten notes and reports, and many hours of audio and video interviews with witnesses.
- The lead investigator prepares an Investigation Plan, setting out the goals, timelines and budget for the investigation, as well as the lines of inquiry to be pursued, all of which must be approved by the Chairperson or a delegated Member of the Commission.
- The lead investigator and an assisting investigator, in consultation with Commission legal counsel and the Chairperson or the delegated Commission Member, then conduct a detailed examination of the material from the CFPM; review any relevant legislation, policies and regulations; and arrange and conduct interviews with witnesses.
- Following the completion of witness interviews, the investigators submit a comprehensive report on the information gathered during the investigation to the assigned legal counsel for review and ultimately, to the Chairperson or the delegated Commission Member.
- Subject to any necessary further inquiries, the Chairperson or the delegated Commission Member reviews the results of the investigation and determines his findings and recommendations about the complaint. On the basis of these findings and recommendations, the Chairperson or Commission Member prepares the Commission's Interim Report with the assistance of Commission legal counsel. The Interim Report goes to the MND, the CDS and the CFPM.
- Following receipt and consideration of the official response to the Commission's Interim Report, which is ordinarily provided by the CFPM in a Notice of Action, the Commission then prepares and issues its Final Report, which goes to the relevant departmental officials, and also to the complainant and the subject members(s) of the MP.

VII. Interference Complaints Process

Interference Complaint Filed

Any members of the MP who conduct or supervise investigations and believes a member of the CF or a senior official of the DND has interfered with, or attempted to influence, a MP investigation, may file a complaint with the Commission.

Commission Investigates

The Commission has sole jurisdiction to investigate interference complaints. A preliminary review is conducted to determine whether an investigation should be commenced, the scope of the investigation and how to approach the investigation. Once this is completed, the Commission commences an investigation.

Commission Releases Interim Report

The Interim Report includes a summary of the Commission's investigation, as well as its findings and recommendations. This report goes to the MND, the CDS if the alleged interference was carried out by a member of the military or to the DM if the subject of the complaint is a senior official of the DND, the JAG; and the CFPM.

Notice of Action

This official response to the Interim Report indicates the actions, if any, which have been or will be taken to implement the Commission's recommendations.

Commission Releases Final Report

Taking into account the response in the Notice of Action, the Commission prepares a Final Report of its findings and recommendations in the case. The

Final Report is provided to the MND; the DM; the CDS; the JAG; the CFPM; the complainant and the subject(s) of the complaint, as well as anyone who has satisfied the Commission that they have a substantial and direct interest in the case.

VIII. Public Interest Investigations and Hearings

At any time when it is in the public interest, the Chairperson may initiate an investigation into a complaint about police conduct or interference in a police investigation. If warranted, the Chairperson may decide to hold a public hearing. In exercising this statutory discretion, the Chairperson considers a number of factors including, among others:

- Does the complaint involve allegations of especially serious misconduct?
- Do the issues have the potential to affect confidence in MP or the complaints process?
- Does the complaint involve or raise questions about the integrity of senior military or DND officials, including senior MP?
- Are the issues involved likely to have a significant impact on MP practices and procedures?
- Are the issues of broader public concern or importance?



If at any time the Chairperson considers it advisable in the public interest, the Chairperson may cause the Complaints Commission to conduct an investigation and, if warranted, to hold a hearing into a conduct complaint or an interference complaint.

THE YEAR IN REVIEW *part*

I. Highlights of Activities and Accomplishments

The following information highlights just some of the Commission's activities and accomplishments this year.

- The Commission concluded the evidentiary portion of its Public Interest Hearing (PIH) examining the "failure to investigate" complaint by Amnesty International Canada (AIC) and the British Columbia Civil Liberties Association (BCCLA) regarding the treatment of Afghan detainees and heard final submissions from the parties. On September 29, 2011, Justice de Montigny of the Federal Court of Canada dismissed applications from seven of the eight subject Military Police (MP) members challenging aspects of these Commission hearings. The Interim Report was completed on December 21, 2011 and submitted to the Minister of National Defence (MND), the Chief of Defence Staff (CDS), the Judge Advocate General (JAG) and the Canadian Forces Provost Marshal (CFPM). The Commission now awaits the response called a Notice of Action.

2

“In the field of Police oversight, assessing acceptance and results is a difficult matter. The very nature of the work involves two sharply opposing views and imposed change. Change is never easy.”

Peter Tinsley, former MPCC Chairperson

- On April 29, 2011, the Commission launched a Public Interest Investigation (PII) into a complaint regarding the conduct of the MP investigations related to the death of Corporal (Cpl) Stuart Langridge at Canadian Forces Base/Area Support Unit (CFB/ASU) Edmonton filed by his parents, Mr. Shaun and Mrs. Sheila Fynes. On September 6, 2011, the Chairperson announced the Commission would hold a Public Interest Hearing into this complaint. At an October 19, 2011 Case Conference, the date of February 27, 2012 was set for the commencement of the Hearing.
- A comprehensive submission to the Second Independent Review of the *National Defence Act* (NDA), chaired by the Honourable Patrick J. LeSage, was developed and submitted. It contains proposals in four areas in relation to the Commission's governing legislation: the scope of oversight; the Commission's access to information, fair and efficient procedures; and MP independence.
- Bill C-15 – *Strengthening Military Justice in the Defence of Canada Act* was tabled in the House of Commons on October 7, 2011, proposing a number of amendments to the NDA primarily related to the military justice system for the Canadian Forces (CF). One provision of the Bill relates to the proposed authority of the Vice Chief of the Defence Staff (VCDS) to direct MP investigations. In a brief to the House of Commons Standing Committee on National Defence, the Commission expressed serious concerns regarding the potential impact of this provision on retaining the CFPM's independence from the chain of command in the conduct of individual law enforcement investigations.
- For the 6th year in a row, 100% of the Commission's recommendations in its Final Reports have been accepted by the CFPM.
- The Commission visited eight (8) CF bases across Canada to engage with key audiences about the Commission's mandate and activities and to respond to any questions or concerns about the complaints process. Also, the Commission made five (5) presentations to groups of MP members in training sessions at the Canadian Forces Military Police Academy and two presentations to members of the Ceremonial Guard involved in the Changing of the Guard Ceremonies on Parliament Hill. All presentations were very well-received.

II. Monitoring and Investigations

Overview

In 2011, the Commission continued to effectively manage a heavy workload involving multiple and complex complaint investigations, including some carried forward from the previous year.

The following table highlights the Commission's monitoring and investigation activities on a four year comparative basis from 2008 to 2011.

Statistics from 2008-2011

	2008	2009	2010	2011
Conduct Complaints Carried Over	10	14	13	22
New Conduct Complaints *	42	43	43	45
Interference Complaints Carried Over	0	0	1	0
New Interference Complaints	0	1	1	8
Reviews Carried Over	8	11	5	5
New Reviews	7	6	6	9
s.250.38 Public Interest Investigations/Hearings Carried Over	4	5	1	1
New s.250.38 Public Interest Investigations/Hearings	3	0	0	1
Judicial Proceedings Carried Over (e.g. Judicial Review)**	0	1	1	1
New Judicial Proceedings (e.g. Judicial Review)	1	3	4	0
No of General Files Open (Request for information and other)	37	36	45	45
New Files Opened	90	89	99	108
Total No of Files Dealt in the Year	112	120	120	137
No of Decisions/Rulings Issued	2	8	8	5
No of Interim Reports	7	8	5	10
No of Final Reports ***	9	17	12	9
No of Recommendations on Final Reports	1	23	4	11****
Percentage of Recommendations Accepted	100%	100%	100%	100%
No of Reports/Decisions/Rulings Issued	18	33	25	24

* Includes no jurisdiction complaints.

** Judicial Review is the process under which the legality of actions of tribunals can be reviewed by the Federal Court.

*** Includes Concluding Reports and no jurisdiction letters.

**** The four interference complaints MPCC 2011-011, 013, 018 & 021 were investigated concurrently and one report was produced which amalgamated the four complaints. One recommendation resulted which is applicable to all four files.

No jurisdiction means where conduct or interference complaints examined by the Commission include elements over which the Commission has no legal jurisdiction e.g. where the subject of a complaint is not a member of the Military Police or the allegation complained of does not constitute a "policing duty or function" as per the Regulations.

III. Fynes Public Interest Investigation and Hearing

Introduction

The Public Interest Investigation and Hearing into the conduct of the MP investigations related to the death of Cpl Stuart Langridge attracted significant public attention. Greater public awareness fosters a greater understanding of the Commission's mandate,

of the nature of the issues that are being examined, of the meaning of independent civilian oversight of the MP, and of the risks associated with not pursuing these issues. Public awareness and transparency further underscore the Commission's accountability, as well as the accountability of the MP.

On April 29, 2011, the Chairperson made the decision to launch a PIH into the conduct of the MP investigations related to the death of Cpl Stuart Langridge following a complaint filed by his parents, Mr. Shaun and Mrs. Sheila Fynes. Cpl Langridge committed suicide on March 15, 2008 at CFB/ASU Edmonton. He had previously served in Bosnia and Afghanistan. Mr. Shaun and Mrs. Sheila Fynes' allegations included:

- Canadian Forces National Investigation Service (CFNIS) did not conduct independent investigations into this matter;
- The investigations they did conduct were inadequate and biased;
- The investigations were aimed at exonerating CF members of any responsibility for their failure to prevent Cpl Langridge's death and for the manner in which the complainants were subsequently treated;
- CFNIS failed to investigate important issues;
- CFNIS participated in efforts to explain and justify the conduct of CF members, instead of conducting independent investigations into potential criminal or service offences committed by CF members;
- CFNIS members allowed non-MP members of the CF and a broader CF concern about potential litigation to influence or dictate their decisions about the type of information to be provided to the complainants and the manner in which that information would be provided; and
- CFNIS members involved lacked professionalism and competence in their handling of various aspects of the case and, in particular, in failing to disclose the existence of a suicide note from their son to the complainants.

Based on a preliminary review of the investigative files and on an interview with the complainants to clarify their allegations, the Commission identified the 13 subjects of this complaint and provided them with notification. This preliminary review of the documentary materials and interview with the complainants led the Chairperson to conclude that the nature of the issues raised in this complaint made the holding of a PIH not only warranted in the public interest, but necessary in order to investigate this complaint properly.

In the decision letter of September 6, 2011, the Chairperson stated:

The allegations in this complaint put into question the very ability of the Military Police (MP) to conduct independent investigations into the behaviour of members of the CF, particularly when decisions made by the Chain of Command are involved. If these allegations are substantiated the implications are of profound significance. One of the MP's central functions is to enforce criminal and military law within the CF. For this purpose, the MP investigates and reports on misconduct by CF members, thereby ensuring that members of the CF act in accordance with the law and the military Code of Service Discipline. If, as alleged in this complaint, a bias did exist that prevented CFNIS from uncovering and exposing information detrimental to the Canadian Forces, then the ability of the MP to carry out this important function would be significantly impaired. Similarly, and perhaps even more importantly, if the CFNIS did not possess the required degree of independence to make decisions about what issues to investigate, how to investigate these issues, and what information to provide to complainants without being influenced by the interests of other elements of the CF, or if the CFNIS improperly failed to exercise this independence, then it would be difficult if not impossible for the Military Police to carry out its core functions....

Openness is particularly important in light of the fact that these allegations themselves raise issues about transparency. As a result, the process used to shed light on this matter and determine whether these allegations are well founded should itself be open and transparent.

A Case Conference was held on October 19, 2011 where preliminary matters were dealt with and the date of February 27, 2012 was set to commence the Hearing.

IV. Afghanistan Public Interest Hearing

Since 2007 the Commission has been investigating a series of complaints regarding MP conduct in relation to the handling and transfer of detainees in Afghanistan. In April 2010, the only complaint outstanding was a complaint from Amnesty International Canada and the British Columbia Civil Liberties Association (AIC/BCCLA) alleging that members of the MP "failed to investigate" the decisions of the Task Force Commanders in Afghanistan to transfer Afghanistan detainees to a foreseeable risk of torture or abuse by the Afghanistan authorities. It was alleged these transfers were ordered with knowledge of, or with willful blindness to, the real risk of torture or mistreatment post-transfer. This complaint has been referred to as the "failure to investigate" complaint.

The Commission's progress with the Afghanistan PIH into the "failure to investigate" complaint, and a related complaint into MP involvement with the physical transfer of those detainees (the "transfer complaint"), had been extraordinarily delayed due to ongoing challenges with gathering documents; limitations on access to witnesses; and by legal challenges in Federal Court to the scope of the Commission's mandate to investigate these complaints.

After much public scrutiny and media attention to the lengthy delays in document production and significant problems with access to witnesses, the Government of Canada began to comply with various summonses with respect to document production such that, by April 2010, the Commission was, at last, in a position to commence substantive hearings into the "failure to investigate" complaint.

April 2010 to February 2011 was a period of very intense activity. The Commission Panel, composed of Chairperson, Glenn M. Stannard, and Commission Member, Roy V. Berlinquette, heard from 37 witnesses, including the named subject MP personnel, in addition to presiding over numerous motions and the final submissions from the parties. The Hearing continued to attract significant public and media attention. Final oral submissions were heard on February 2, 2011, whereupon the Commission concluded the evidentiary portion of its Hearing and adjourned to review the whole of the evidence and submissions, and begin drafting its Interim Report.

Despite the conclusion of the Hearing, three judicial review applications were pending in Federal Court, brought by seven subject MP members, Brigadier-General (BGen) Blanchette, and the Attorney General of Canada. These applications from subject MP members had argued they were being denied the right to a

fair hearing, challenging the Commission's power to demand access to various documents, and also took issue with what they said was a lack of clear standards of professional conduct against which their behaviour should be measured.

The first application sought to set aside a documentary summons issued by the Commission to BGen Blanchette. The second and third applications related to interlocutory decisions by the Commission addressing the standard of conduct against which the subjects of the "failure to investigate" complaint would be judged, and the test the Commission would apply when determining whether the subject MPs had the "means of knowing" about the risks of mistreatment of Afghanistan detainees.

The Commission was granted intervenor standing in these proceedings, and prepared accordingly. On March 28 and 29, 2011, the Honourable Justice de Montigny of the Federal Court heard oral submissions from all parties and the Commission, and began his deliberations on the issues.

On September 29, 2011, Justice de Montigny dismissed the three applications for judicial review.

In his ruling, Justice de Montigny stated, in part:

"If the Commission does not have full access to relevant documents, which are the lifeblood of an inquiry, there cannot be a full and independent investigation.... But at the end of the day, one principle must stand: it is for the Commission, not for the government, to determine ultimately what documents are relevant to its inquiry. If it were otherwise, the Commission would be at the mercy of the body it is supposed to investigate. This was clearly not the intent of Parliament."

Justice de Montigny also stated that *"These applications raise important issues with respect to the jurisdiction of the MPCC and the role of this Court in overseeing investigative bodies... these applications are premature and... ought to be dismissed."*

Following this Federal Court decision, the Commission released its Interim Report dated December 21, 2011 to the MND, the CDS, the JAG and the CFPM. The Commission awaits the Notice of Action, after which it will issue a public Final Report.

V. Legislative Renewal

a) Second Independent Review of the *National Defence Act* [C-25]

In 2011, the MND appointed the Honourable Patrick J. LeSage, retired Chief Justice of the Ontario Superior Court, to conduct the Second Independent Review of the NDA.

The review deals only with the changes Bill C-25 made to the NDA, not the entire Act. Bill C-25 requires the MND to conduct an independent review of the provisions and operation of the Bill every five years, and to table a report of the review in Parliament. The Bill made important amendments to the Act concerning the military justice system, the CF grievance process and the MP complaints process.

On June 23, 2011, the Commission submitted a comprehensive brief to the Independent Review Authority containing proposals in four areas:

- the scope of Military Police oversight;
- the Commission's access to information;
- fair and efficient procedures; and
- Military Police independence

Examples of issues within some of these four areas include:

The Scope of Military Police Oversight

A key element of this section is ***Has the NDA Part IV been Engaged: Who Should Decide?*** Presently the legislation is silent on the characterization of complaints: this is, on the issue of determining whether or not a complaint about an MP relates to the MP's performance of "policing duties or functions."

This is especially problematic in the context of the NDA Part IV scheme because, unlike some other civilian police oversight models, the Commission is not the only portal for filing complaints; e.g. conduct complaints may also be made to the JAG, the CFPM or to any MP member. If any of these other recipients of a complaint were to deem the complaint not to relate to an MP's performance of "policing duties or functions", there is a possibility they could unilaterally decide not to engage the NDA Part IV procedures. In such a case, the Commission could remain entirely unaware a complaint was made, and the complainant would not have

the opportunity to present submissions to the Commission to argue the complaint falls within NDA Part IV.

Consistent with the spirit and purpose of independent oversight, the only appropriate method for determining, within the NDA Part IV scheme, whether a complaint is a "conduct complaint" or not is for the Commission to decide the issue. This is consistent with the approach taken in other police oversight legislation in Canada.

The Commission supports preserving the current list of authorized conduct complaint recipients. However, the Commission proposes a requirement that the authorized recipients refer complaints about MP conduct (or communications which could potentially be considered to be complaints about MP conduct) to the Commission for a determination as to whether the matter constitutes a conduct complaint for the purposes of NDA Part IV.

The Commission's Access to Information

A key element of this section is ***Access to Witnesses: Expanded Subpoena Power and Duty to Cooperate.*** In addition to broader and stronger general provisions for the Commission's access to relevant records, it would also be more effective and efficient for the Commission to be able to require the cooperation of relevant witnesses (expanded subpoena power), at least members of the MP or of the CF, in relation to its investigations under the Act and not just in PIHs.

It would also be appropriate to provide for a duty to cooperate with Commission investigations by all CF and DND personnel, in relation to conduct and interference complaints. Pursuant to the *Military Police Professional Code of Conduct*, MPs other than the subject member are required to cooperate with CFPM investigations of complaints. As a result, the CFPM may have access to more witness information in a first instance investigation of a conduct complaint than the Commission would on a review of the same complaint.

Fair and Efficient Procedures

Key elements within this section include ***Expanding Access to Informal Resolution of Complaints*** and ***Extending Right of Review to Subjects of Conduct Complaints.***

Expanding Access to Informal Resolution of Complaints

The Commission supports a greater use of informal resolution to resolve complaints under NDA Part IV. In the Commission's view, CFPM restrictions on the use of this process for conduct complaints are excessive and should be revisited. For example, conduct complaints could relate to MP policies or to "excessive use of force" and the "arrest of a person" – not all of which are so serious that the possibility of informal resolution must be precluded.

In addition, the precluded category of complaints concerning "abuse of authority" can be construed as covering fairly minor complaints about the exercise of police enforcement discretion, such as issuing parking or traffic tickets. The Commission proposes the categories of conduct complaints for which informal resolution is precluded be reduced and any such exclusions be stipulated in the Act itself rather than the Regulations. In addition, the Commission proposes it be notified of the terms of any informal resolutions of conduct complaints by the CFPM or delegated local MP authorities.

The Commission also considers it should have similar powers to conduct informal resolution of interference complaints. The opportunity for informal discussions between affected parties could increase mutual understanding and appreciation of roles, responsibilities and intentions, and possibly avoid the need for costly formal investigations in some cases.

Extending Right of Review to Subjects of Conduct Complaints

During the Commission's Outreach Program visits to CF bases and MP units, MPs made a common complaint about the current conduct complaints system where only a dissatisfied complainant may request a review of a complaint by the Commission, following initial disposition by the CFPM. Many MPs view this as a fairness issue. A right of review for subjects would provide the opportunity to challenge adverse findings regarding their conduct, independent of any challenges to remedial measures taken against them.

Presently, where a subject MP feels he/she has been treated unfairly in the initial CFPM investigation of a conduct complaint against them, their only recourse under NDA Part IV is to file their own conduct complaint against the CFPM's Professional Standards investigators. However, such fresh conduct complaints must first be referred to the CFPM for

disposition before they may be reviewed by the Commission. In addition to being inefficient, this process is also one in which the subject member is unlikely to have much confidence, given that the CFPM will be assessing his own investigative process. The Commission proposes that the dissatisfied subject MP be able to refer the matter directly to the Commission for a review, as complainants are now entitled to do.

Military Police Independence

Elements within this section include **CFPM – VCDS Reporting Relationship**. Some aspects of the CFPM-VCDS Reporting Relationship are addressed in the Commission's October 26, 2011 brief (highlighted below) to the Standing Committee on National Defence related to Bill C-15 – *Strengthening Military Justice in the Defence of Canada Act*, which was tabled in the House of Commons October 7, 2011.

b) Bill C-15 - Strengthening Military Justice in the Defence of Canada Act

Bill C-15 was tabled in the House of Commons on October 7, 2011. It proposes a number of amendments to the NDA primarily related to the military justice system for the CF. While the Bill does not directly address the jurisdiction or authorities of the Commission, one provision of the Bill of concern to the Commission relates to the proposed authority of the VCDS to direct MP investigations: s.18.5 (3) (in Clause 4). The Commission regards this proposal as highly problematic and it submitted a brief on this matter to the House of Commons Standing Committee on National Defence on October 26, 2011.

This proposed authority would effectively abrogate key provisions of the March 2, 1998 Accountability Framework signed by the VCDS and the CFPM of the day. The purpose of this Framework was to adapt the command relationship of the VCDS and CFPM such that the latter would retain appropriate independence from the chain of command in the conduct of individual law enforcement investigations.

More recently, the independence and integrity of military policing have been further supported through changes to the MP command structure. Effective April 1, 2011, all MP members – in the performance of their policing duties – are under the command of the CFPM. The proposed authority

for the VCDS in subsection 18.5 (3) (in Clause 4 of the Bill) is thus out of step with efforts over the past 15-20 years to recognize and support the independence of the MP within the CF, particularly when conducting law enforcement investigations. Perhaps more importantly, the authority in question runs counter to Canadian law and practice regarding the independence of police investigations generally.

As far as the Commission is aware, there have been no problems with the VCDS-CFPM Accountability Framework which justify its revocation and the proposed subsection 18.5 (3) of the Bill runs counter to various efforts over the years to shore up public confidence in the independence of military policing. For these reasons, and for other legal and constitutional reasons, the Commission is of the view that this subsection should be deleted from Bill C-15.

VI. Impact on Military Policing (Case Summaries)

In this section of the Annual Report, four (4) case summaries of complaints are provided which, while specific to the Commission's examination of individual complaints, may be of interest and application to the broader military community.

a) Case: Conduct Complaint against two CFNIS Investigators Alleging Improper Investigative Procedures

This complaint arises out of a series of incidents leading to an investigation by the CFNIS into allegations of potential criminal and service offences involving the complainant, then the Non-Commissioned Officer in Charge of the Military Security Guard Unit (MSGU) for a Canadian Embassy abroad. During the MSGU Commander's efforts to settle some personal conflict issues amongst MSGU personnel, as well as civilian personnel at the embassy, allegations surfaced suggesting domestic violence may have been occurring between the complainant and his wife. The complainant is a MP member.

CFNIS conducted an investigation, which included interviews of various witnesses, with a view to determining whether there were grounds to believe the complainant or his spouse had committed a service or criminal offence. Ultimately, the investigation determined there was insufficient evidence to support such an allegation.

The complainant alleged the two CFNIS investigators conducted improper interviewing procedures, failed to pursue or document evidence properly,

improperly collected and forwarded extraneous personal information, and showed bias in the conduct of the investigation.

He also alleged that: the CFNIS supervisors failed to properly monitor and assess the investigation; the supervisors failed to conclude the investigation and inform him of same in a timely fashion; the investigators and supervisors together misled him for an undue length of time into thinking he was a suspect, when he was in fact a potential victim; and prejudicial information was improperly forwarded to his Commanding Officer in the CFNIS's final report.

The Commission found there was merit to some of the complainant's allegations concerning failure to properly record or document investigative steps and evidence, and failure to interview certain relevant witnesses. The Commission also found that insufficient consideration was given to the scope of evidence, which ought to have been included in the MP Investigation Report (MPIR) that was sent to the complainant's Commanding Officer. However, the Commission found the more serious allegations of improper interview procedures, improper inclusion of certain evidence in the file, biased investigation, inadequate supervision of the file and misleading the complainant into improperly thinking he was a suspect were unsubstantiated.

The Commission made three recommendations: (1) that the investigators in this file be reminded of proper recording of evidence and investigative steps; (2) that training be given generally to MPs on the importance of so doing; and, (3) that policies and training on the composition of MPIRs be reviewed and revised with particular attention to privacy interests and relevance considerations. The CFPM accepted all recommendations.

b) Case: Conduct Complaint Alleging Bias in an MP Investigation

This complaint arose as a result of a MP investigation into a fist-fight in which military personnel were involved outside an off-base drinking establishment. The results of the MP investigation were forwarded to the relevant unit – a CF training school – for disposition. While no one was charged, the complainant, an instructor at the school, was the subject of administrative measures by his chain of command.

The complainant alleged that the MP investigation was biased against him as reflected in: (1) the failure of the MPs to take a statement from him and to make reasonable efforts to interview one of the other participants in the fight who would have provided evidence favourable to the complainant; and (2) wrongly characterizing the complainant as the instigator of the fight (in the complainant's view, he was a peacemaker).

The Commission systematically compared the investigating MPs' handwritten notes with the entries in the MP electronic file which formed the basis of the MP report, along with information obtained from witness interviews conducted by the Commission with the complainant and other participants in the event, as well as with the MP subjects of the complaint. Unfortunately, the Commission's review of the MP investigation was hindered to some extent by the inexplicable failure of the investigating MP to record the witness interviews which he conducted (on the basis that those interviews which took place were with persons not considered to be suspects).

The Commission concluded that, while there were gaps and inconsistencies in the MP investigation file, the evidence did not establish bias by the MPs against the complainant. The Commission also observed that, while the amount of analysis offered in the MP investigation report was minimal, the crux of what was said by the investigating MP was accurate in describing the complainant as a "protagonist" (or main participant) in the incident. All the available evidence fairly pointed to him as a willing participant in the fight, even if he did not start it and regardless of his motives for intervening.

Although the Commission found the complainant's allegations ultimately to be unsubstantiated, the Commission recommended: (1) that the involved MPs be reminded of the value and importance of

recording witness interviews to ensure investigative integrity and best evidentiary basis for any legal proceedings; and (2) that the CFPM review MP investigation reporting policies and practices to ensure adequate analysis for those expected to act on the results of MP investigations. The CFPM accepted both recommendations.

c) Case: Conduct Complaint Alleging Verbal Abuse and Inappropriate Behaviour by an MP

The complainant asked a MP Detachment for assistance with respect to alleged harassment related to a civilian tenancy dispute involving himself as landlord and a family which included a member of the CF. The former tenant family had left the rental property and was living at a Canadian Forces base at the time of the relevant events. Although the assigned MP member informed all parties that this was a civil matter not within the jurisdiction of the MP, he involved himself as interlocutor to attempt to assist the parties.

The complainant alleged that during a telephone conversation between him and the MP member, the MP member threatened to arrest, yelled at and berated him; and that the MP member attempted to influence the outcome of the tenancy dispute before the provincial tenancy board by telephoning the adjudicator. The MP member denied the allegations. The telephone call between the complainant and the MP member was not recorded; however, the recording of the call to the adjudicator was available.

The Commission determined that while both parties raised their voices during the telephone call, the subject MP member did improperly order the complainant to retract a letter in which the MP's role was misstated and left the impression with the complainant, directly or indirectly, that he would be subject to arrest if he failed to do so. Moreover, the contents of the letter over which the MP took issue do not appear to disclose an offence, and certainly not one over which the MP would have had jurisdiction. There was, however, insufficient evidence to determine that the subject MP's conduct amounted to yelling at and "berating" the complainant, although it is evident that the MP was displeased with the complainant's actions in sending the letter and that he had developed a certain amount of animosity towards the complainant by the time the conversation in question took place.

The Commission determined that the call to the adjudicator exceeded the MP member's policing authority, and was inappropriate and unprofessional, although there was insufficient evidence to conclude his motivation was to influence the outcome of the dispute.

The Commission made two recommendations: (1) that MP members be reminded of the need to report all relevant information and action taken in the Secure Military Police Information System; and (2) that the CFPM review the appropriateness of the remedial measures taken in response to this complaint in light of the Commission's findings. The CFPM accepted both recommendations.

d) Case: Interference Complaints against Various Members of Chain of Command

This case involves allegations of interference in respect of four separate MP investigations in which the same complainant MP was directly involved.

The complainant MP alleged that various members of his MP chain of command improperly interfered in four of his investigations (two domestic violence incidents in on-base housing and two off-base suspected impaired drivers) by: calling him into a meeting after his shift was over; challenging his actions; accusing him of violating suspects' rights by exceeding his jurisdiction; and imposing a remedial measure (recorded warning) on him.

The Commission's investigation revealed that all of the perceived acts of interference were, in fact, legitimate supervisory guidance from the complainant's MP superiors. While the Commission recognizes the importance of MP independence in the exercise of policing discretion, it also recognizes that MP superiors have a right, and a duty, to supervise and control that discretion. Absent bad faith or an improper purpose, MP supervisory intervention does not constitute improper interference. It is not enough for the supervisor to be wrong on a question of law or policy.

In this case, the MP chain of command's concerns with the complainant's actions in the four investigations in question were found to be genuine and reasonable, and as such, the complaints could not be substantiated.

There was a noted lack of supervisory input recorded in the MP investigation files. In the course of the investigation, it was determined that this was at least partially due to a practice on the part of the main subject of the complaints of sending separate emails, which were not put in the MP investigation file. As a result, the Commission recommended that the CFPM ensure that the need for transparency through the recording of substantive supervisory direction is adequately emphasized to MP supervisors. The CDS, who is responsible for providing the Notice of Action in interference complaints against CF members, accepted this recommendation.



As with civilian police officers,
members of the CF Military
Police have special powers.
With power comes responsibility,
and with responsibility
comes accountability.

Louise Cobetto, Former MPCC Chairperson

VII. Outreach and Collaboration

In 2011, the Commission continued its outreach and collaborative initiatives with the MP community, the military chain of command and other organizations within and outside government. These initiatives enabled the Commission not only to share information regarding its mandate and responsibilities, but also to discuss case examples and the Commission's findings and recommendations. In addition, the Commission was able to gain a further perspective from these groups with respect to issues faced by the MP and the larger CF community.

Visits to Canadian Forces Bases across Canada

On an annual basis, the Commission meets with three primary audiences at CF bases across Canada in order to increase awareness of its mandate and activities, as well as to respond to any concerns about the complaints process. These audiences are:

- Members of the MP who are most affected by the process, whether as subjects of complaint or as potential complainants.
- The military chain of command, which relies on the services of members of the MP in the maintenance of military discipline but which must not interfere with police investigations.
- Those who may interact with the MP because they live, work or pass through a CF base. The Commission's connection to this group is often made through the Executive Directors and staff of the Military Family Resources Centres and Housing authorities at each base.

During 2011, representatives of the Commission visited eight (8) Canadian Forces' bases making formal presentations and having informal discussions with attendees at the following locations across Canada:

- Halifax, Nova Scotia
- Shearwater, Nova Scotia
- Greenwood, Nova Scotia
- Suffield, Alberta
- Gander, Newfoundland
- Goose Bay, Labrador
- Wainwright, Alberta
- Edmonton, Alberta

Bases are selected from logistical and geographic aspects to help ensure the broadest access to these information sessions but, in particular, consideration is given to respecting and accommodating the demands associated with the significant operational realities at these bases.

The participants in the 2011 information sessions provided the Commission with genuinely enthusiastic and very positive feedback on the value of the presentations, the case examples used and the clarity of responses the Commission provided to questions. Constructive observations included that consideration be given to possibly further lengthening the presentations to go into even greater detail.

In addition, the Commission was invited to make presentations to increase awareness of its mandate and processes to participants at the Canadian Forces Military Police Academy (CFMPA), Qualifying Level 5 training sessions, in Borden, Ontario. Five (5) such presentations were made, attended by approximately 25 participants at each session.

The CFMPA has been in existence since April 1999. Its primary mission is to provide career and specialist training to Regular and Reserve Force members of the Military Police Branch, and security-related training to non-Branch personnel of the Regular and Reserve Forces. CFMPA also provides training to personnel from other government and law enforcement agencies and to foreign nationals under the Military Training Assistance Program.

The Commission was also asked to make presentations to approximately thirty (30) reservists who are members of the Ceremonial Guard involved in the Changing of the Guard Ceremonies on Parliament Hill. Two such sessions were held.

The Commission very much appreciates the efforts of the many individuals who organized, supported and participated in its outreach activities and its sessions at the CFMPA and bases. Through these activities, the Commission continued to broaden and reinforce its appreciation and understanding of some of the operational challenges faced by the MP community, as well as providing very useful information to participants.

Collaborative Working Relationships

In 2011, the Commission continued its ongoing discussions with the CFPM and the Deputy Commander Canadian Forces Military Police Group

(DComd CF MP Gp) to address and resolve issues and even further strengthen the complaints resolution process.

On April 1, 2011, the Commission Chairperson and the General Counsel attended the Transfer of Command Authority Parade for the CF Military Police. Effective April 1, 2011, the CFPM assumed full command of all MPs who are directly involved in policing. The CFPM then assigns MP elements to other supported commanders under Operational Command.

On June 21, 2011, LCol Gilles Sansterre, DComd CF MP Gp, made a well-received presentation to the Commission's staff regarding the background and rationale for this CF Military Police Transformation.

The Commission also continued its mutually beneficial working relationships with other government departments and agencies, professional associations and intra-government affiliations.

Military Police Symposium

On March 31, 2011, the Commission Chairperson in company with the General Counsel, attended the Military Police Symposium and made a presentation to MP officers regarding the role of the Commission and its supporting complaints processes, as well as current issues of concern.

Faculty of Law of the University of Ottawa – Military Law Class

On February 9, 2011, the General Counsel and Senior Counsel made a presentation to the Faculty of Law of the University of Ottawa – Military Law Class, providing background on the role of the Commission, its function and the types of complaints it investigates. Topics covered included the Commission's governing legislation, public confidence and trust, the rule of law, the purpose of oversight, the conduct and interference complaints process, selected case examples, and proposals related to the five year legislative review of NDA Part IV.

Professional Associations

The Commission participated with professional associations such as the Canadian Association of Chiefs of Police (CACP), the Ontario Association of Chiefs of Police (OACP), the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE), the Canadian Bar Association (CBA) and the Heads of Federal Administrative Tribunals Forum (HFATF).

The Chairperson of the Commission is a life member of both the CACP and the OACP and is a former president of the OACP.

CACOLE is a national non-profit organization of individuals and agencies involved in the oversight of police officers in Canada. It is dedicated to advancing the concept, principles and application of civilian oversight of law enforcement throughout Canada and abroad. CACOLE is recognized worldwide for its oversight leadership. The Commission Chairperson is a member of the Board of Directors of CACOLE.

At CACOLE's June 2011 meeting in Canmore, Alberta, the Commission's Chairperson, Glenn M. Stannard, moderated a Panel discussion on the roles of the Commission and of the CFPM and key issues of mutual interest and concern. Panel members were the CFPM, Colonel Tim Grubb, and the Commission's General Counsel, Julianne Dunbar. The General Counsel's remarks highlighted key issues in civilian oversight of military policing, as well as some of the key areas the Commission is seeking to clarify in its governing legislation, such as who should decide if a complaint will be treated as a NDA Part IV conduct complaint which will be subject to external oversight or not. The Commission's position is that the oversight body and not the overseen police force should make this determination.

The CBA is a professional, voluntary organization which represents some 35,000 lawyers, judges, notaries, law teachers, and law students from across Canada. Through the work of its sections, committees and task forces at both the national and branch levels, the CBA is seen as an important and objective voice on issues of significance to both the legal profession and the public. The Senior Counsel and Legal Counsel of the Commission are Executive Members of the CBA's Military Law Section.

Intra-Government Affiliations

The Commission continued to participate in co-operative intra-government affiliations through its membership in a variety of Small Agencies' initiatives. These include the HFATF, the Personnel Advisory Group, the Small Agencies Financial Action Group, the Small Agency Administrators Network and the Association of the Independent Federal Institutions' Counsel.

STEWARDSHIP EXCELLENCE *part*

Throughout 2011, the Commission continued to demonstrate sound corporate governance and stewardship excellence in the effective and efficient management of its corporate services.

I. Human Resource Planning and Management:

The Commission continues to stress effective human resource planning. This includes anticipating potential staff turnover, developing staffing strategies to help ensure that knowledge is retained (e.g. through employee learning plans) and ensuring that vacancies are filled as quickly as possible.

However, increased accountability and transparency standards have lengthened the staffing process and made it more difficult to staff positions in a timely manner. As a micro-agency, one Commission employee may oversee several programs and staffing delays result in increased costs to the Commission, as well as the transfer of workload onto other employees who are already fully engaged in fulfilling their existing responsibilities.

As per the normal scheduled cycle, the Commission completed a staffing management review begun in 2010-11. This review examined compliance, trends, and file management. The results were used to ensure all staffing actions are managed and administered in accordance with applicable legislation and delegation of authorities.

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“Progress... would not have been possible without the dedication of Commission staff. They deserve to be recognized for their many important contributions to ensuring the effectiveness and professionalism of Commission operations.”

Glenn Stannard, Chairperson

In 2011, the Commission also completed the implementation of various automated human resources processes and systems, such as the automated leave application and the Compensation Web Application which requires employees to view their pay on line, eliminating the need for paper-based pay stubs normally received during the pay period. This is another example of the Commission's efforts to implement the "environmental greening" of paper-based processes.

Awards and Recognition

Throughout the year, the Commission continued to recognize the efforts of its employees. During National Public Service Week (NPSW) in June 2011, the Chairperson hosted an awards and recognition appreciation ceremony. At this ceremony, a number of employees were publicly recognized for their contributions, including the Workplace Well-Being Advocate Award.

The Commission was one of a number of departments and agencies that made a proportional financial contribution to assist with the cost of the Federal government's national and regional NPSW initiatives. The Commission was also one of the 42 out of 98 organizations who submitted evaluations on the overall success of NPSW initiatives. Over 83% of these organizations gave a success rating of 4 or

higher. The Commission's NPSW initiative received from its staff an overall success rating of 5/5. On November 24, 2011, the Commission was extremely pleased to have been presented with the Pledge Rate Award for the department or agency of fewer than 250 employees that has shown outstanding pledges in their workplace campaign in support of the Government of Canada Workplace Charitable Campaign.

Public Service Employee Survey

In the fall of 2011, a survey of all public service employees took place. One hundred percent (100%) of the Commission's employees completed the survey. The survey is an opinion poll which has been conducted triennially since 1999. It seeks perceptions regarding leadership, workforce and workplace conditions, and measures employee engagement, its drivers and its outcomes. The survey also identifies areas for improvement at the public-service-wide, departmental and organizational unit levels. Among other things, it provides data needed for a range of deliverables, such as the Management Accountability Framework (MAF), and various annual reports, such as official languages, employment equity and human resources management. The results of the survey will be available in February 2012.

II. Other Corporate Activities and Accomplishments

Greening of Commission Operations

As part of new policy requirements for the Investment Plan, the Commission included not only "greening" of information technology assets but

also extended it to include all other assets.

The Commission also undertook specific initiatives to "green" its operations, consistent with the Government's Green Procurement Strategy.

In 2009-10 the Commission conducted an Information Management/Information Technology Management Review to identify ways to "green" the Commission's information management, records management, and document management practices. Since then, the Commission has undertaken several initiatives to further "green" its operations and achieve efficiencies, such as modernizing its information technology infrastructure, selecting energy efficient equipment, conducting gap analyses and making processes more efficient, reducing the printing of publications, decreasing the number of paper-based documents through scanning, using video conferences and webcams, emailing and other measures. The Commission will continue to seek and identify other opportunities to further "green" its activities.

Accountability Framework

All Commission Accountability Frameworks have been reviewed and updated to ensure their alignment with the Treasury Board Secretariat's MAF requirements. In the coming year it is intended to schedule a series of reviews of the Commission's Accountability Framework to ensure its continued alignment with any new MAF, legislative, regulatory and central agency policy requirements.

Business Continuity Plan

The Commission monitored its Business Continuity Plan to ensure it reflected central agency requirements, as well as current environmental and operational realities. It continued to reinforce staff awareness of roles and responsibilities through planning, presentations, training, testing of alarm systems and other preventative measures. These included the purchase of a defibrillator to support the potential need of an increased number of individuals using Commission conference rooms during a public interest hearing and the possible increase in related incidents. Collectively, these initiatives ensure effective responses by Commission staff to local emergencies, including earthquakes, flooding and other demands.

Web Accessibility

On November 29, 2010, the Federal Court rendered its decision regarding a claim by Ms. Jodhan, a legally blind individual, that five (5) government websites were inaccessible to her between 2004 and 2007, in violation of her right to equality under the *Canadian*

Charter of Rights and Freedom. The Federal Court ordered the Government of Canada to make the websites of all institutions listed under Schedules I, II and III of the *Financial Administration Act* compliant with the internationally recognized Web Content Accessibility Guidelines 2.0 (WCAG 2.0). A subsequently amended Federal Court judgement reduced the number of institutions required to comply from 146 to 106. The Attorney General of Canada filed an appeal of the Jodhan decision to which the decision is under reserve, although the 106 institutions are still bound to comply by February 29, 2012.

The Commission is continuing its efforts to make its website 100% compliant as per the established deadline set for all institutions.

Horizontal Audits

The Commission participated in two central agency horizontal audits in 2011, along with a number of other departments and agencies. One audit focussed on Information Management and the other focussed on Core Controls.

- **Horizontal Audit of Information Management:**

The information management audit had several purposes: for example, to ensure that governance structures are in place to effectively support an information management strategy and information management outcomes; that there is a highly skilled workforce to deliver these outcomes; and that record keeping practices ensure that information is timely, accurate and accessible for departments in the delivery of programs and services.

- **Horizontal Audit of Core Controls:** The purpose of this audit is to ensure that the Commission's core controls over administration in financial delegation authorities, pay and compensation, casual employees, performance pay, overtime, leave, new employees, departures, acquisition cards, contracts, travel, hospitality and petty cash are effective and in compliance with corresponding legislation, policies and directives.

The report for the Information Management audit was published in 2011 and the report for the Core Controls audit will be published in 2012. Following this publication, the Commission will use the audits' results to address any deficiencies and improve efficiencies in its operations, wherever possible.

III. Finance

Internal Control

In 2011, the Commission continued to demonstrate sound financial stewardship of its finances. It continued to effectively plan, manage and control its budget and expenditures to meet operational requirements, as well as meeting legislative and central agency requirements, such as timely, accurate external financial reporting.

Mandatory Contracting and Procurement

The Commission has recently undergone an audit to which end, an action plan was implemented. The Commission has re-aligned its procedures to ensure the mandatory contracting and procurement vehicles are followed including the increased documentation required by policy.

As a result, the Commission's staff have undergone training and have been offered coaching regarding the updated changes to procedures. Forward looking and planning for any requirement for contracting of professional services or purchasing of goods is now essential. This includes increased consultation with contracting authorities, increased assurance of documentation based on the policy requirements

and increased workload on staff to ensure these requirements meet all the policy requirements. The Commission's staff will address these mandatory vehicles, although operational effectiveness will always be paramount for the Commission to meet its mandate.

Operational Funding

The Commission received an additional \$2.5 million for fiscal year 2008-09 as part of approximately \$5 million in total funding authorized over the three-year fiscal period ending 2010-11. Additional funds were required to address the major financial and operational requirements related to the significantly increased workload associated with the conduct of the Afghanistan Public Interest Hearing (PIH), as well as the Federal Court challenges.

In 2011, the Commission requested an additional \$2.3 million to cover the costs of holding the Fynes PIH. This one-time funding is not part of the Commission base. Of this amount, \$1 million of unused money from the Afghanistan PIH will be transferred to support the Fynes PIH.

5-YEAR BUDGET AND EXPENDITURE COMPARISON

For the past four years, the Commission has been successful in working effectively within its overall annual approved budget of \$3.5M. During the year, regular financial updates were provided to the Executive Committee to reinforce rigorous financial management and control. The timing of the Afghanistan PIH and the Fynes PIH required the Commission to "cash manage" the support of both these public interest hearings, as well as other mandated priorities, until funds were fully transferred.

(in thousands of dollars)

Fiscal Year	Allocations		Expenditures				
	Main Estimate	Total Authorities	Operations	Salaries	Employee Benefits	Total Expenditures	Unspent
2010-2011	4,685	7,020	5,073	1,341	241	6,655	365
2009-2010	5,973	6,853	2,839	1,507	275	4,684	2,169
2008-2009	3,434	4,882	2,159	1,468	240	3,867	1,015
2007-2008	3,434	3,489	2,002	1,100	295	2,909	580
2006-2007	3,416	3,539	1,443	1,186	208	2,837	702

Draft report on Canada's handling of Afghan prisoners done



OTTAWA — The military watchdog investigating Canada's handling of Afghan prisoners has penned an interim report, but the public won't get to see it.

The Military Police Complaints Commission says it has handed its preliminary report to the Defence Prosecution Service.

THE WINDSOR STAR

Afghan detainee hearing adjourns

The Military Police Complaints Commission has adjourned through the sometimes explosive testimony of some 35 witnesses as thousands of pages of documents reluctantly turned over by the federal government, after a hearing into the Afghan detainee case closed Wednesday.

The yearlong hearing concluded with final arguments from civil liberties groups who said eight military police officers were negligent in the investigation of potentially criminal decisions taken by Canadian Forces to transfer detainees to Afghan custody, where they face

constitutional Canada and the B.C. Civil Liberties Association argued there was an ability to transfer detainees to Afghan custody, where they face

Winnipeg Free Press

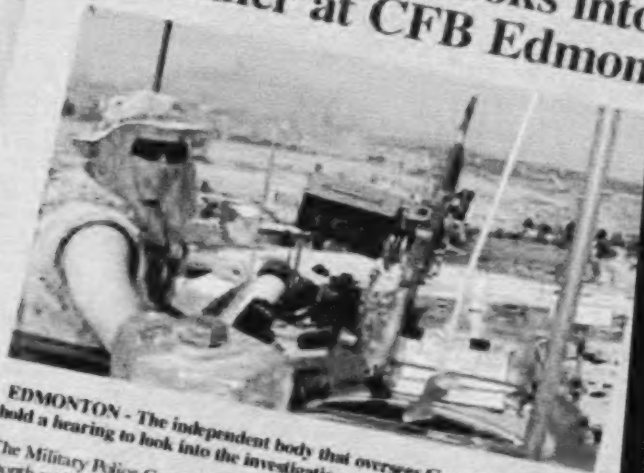
Federal Court tosses bid to limit final report into Afghan prisoner abuse

A man Afghan authorities suspect of insurgency-related activities interrogated during a joint Canadian-Afghan army patrol in the Panjshir District of Kandahar province on Thursday, July 2, 2009. He was taken to a military detention facility but it's not known what happened to him. The Canadian government has been dealt a major setback in its attempt to limit what a military watchdog puts in his final report on the handling of prisoners captured by Canadian troops in Afghanistan. THE CANADIAN PRESS/Colin Perkel

OTTAWA — The Conservative government has been dealt a major setback in its attempt to limit what a military watchdog puts in his final report on the handling of prisoners captured by Canadian troops in Afghanistan.

EDMONTON JOURNAL

Public hearing looks into of soldier at CFB Edmon

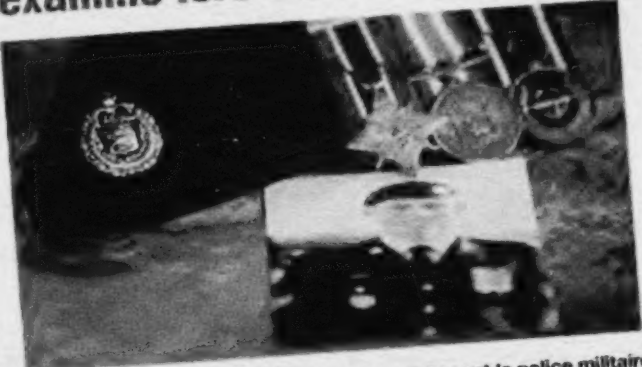


EDMONTON — The independent body that oversees Canada's military police will hold a hearing to look into the investigation of a 2008 suicide at CFB Edmonton. The Military Police Complaints Commission announced the hearing Tuesday after a month review of the investigation into the death of Cpl. Stuart Langridge, 28, who died of post-traumatic stress disorder after stunts in Bosnia and Afghanistan.

Shawn and Sheila Fynes, Langridge's parents, say their son was suffering from post-traumatic stress disorder after stunts in Bosnia and Afghanistan. He was an Edmonton-based regiment. He had a history of mental health issues and substance abuse.

Radio-Canada.ca

Le suicide du caporal Langridge sera examiné lors d'une audience publique



La Commission d'examen des plaintes concernant la police militaire a décidé que les questions soulevées par le suicide d'un soldat étaient sérieuses au point de justifier la convocation d'une audience publique.

Le caporal Stuart Langridge, qui avait déjà affirmé qu'il préférerait mourir plutôt que retourner au sein de son unité, s'est pendu dans une caserne d'Edmonton, le 15 mars 2008.

Il souffrait du trouble de stress post-traumatique après des séjours en Bosnie et en Afghanistan au sein du régiment blindé Lord Strathcona's Horse.

Le suicide, le caporal Langridge avait tenté de s'enlever la vie à plusieurs reprises et consommé

IV. Communications

The Commission continued to effectively meet media and other demands from within and outside government for information, particularly related to the Afghan PIH and to the 2011 Public Interest Investigation and Hearing related to the complaints of Mr. Shaun and Mrs. Sheila Fynes regarding the

MP investigations related to the death of their son, Cpl Stuart Langridge. The Commission also provided timely, open information through press releases, media advisories, backgrounders and other documents, including updates on its website and individually tailored responses, as required.

V. Compliance and Accountability

Corporate Reporting

In 2011, the Commission complied with increased reporting requirements, representing over 100 reports including strategic planning and reporting and surveys, to Parliament and central agencies, which challenged our resources as a micro agency. This included the preparation and submission of strategic documents, such as the Report on Plans and Priorities; the Departmental Performance Report; and Public Accounts, as well as reporting on compliance with other legislative requirements, such as the *Official Languages Act*.

Strategic and Operating Review

The Commission participated in the Federal Government's Strategic Operating Review exercise and committed to continue to find ways to lower spending and identify and implement cash savings measures in order to contribute to lowering the Federal deficit and balancing the Federal budget.

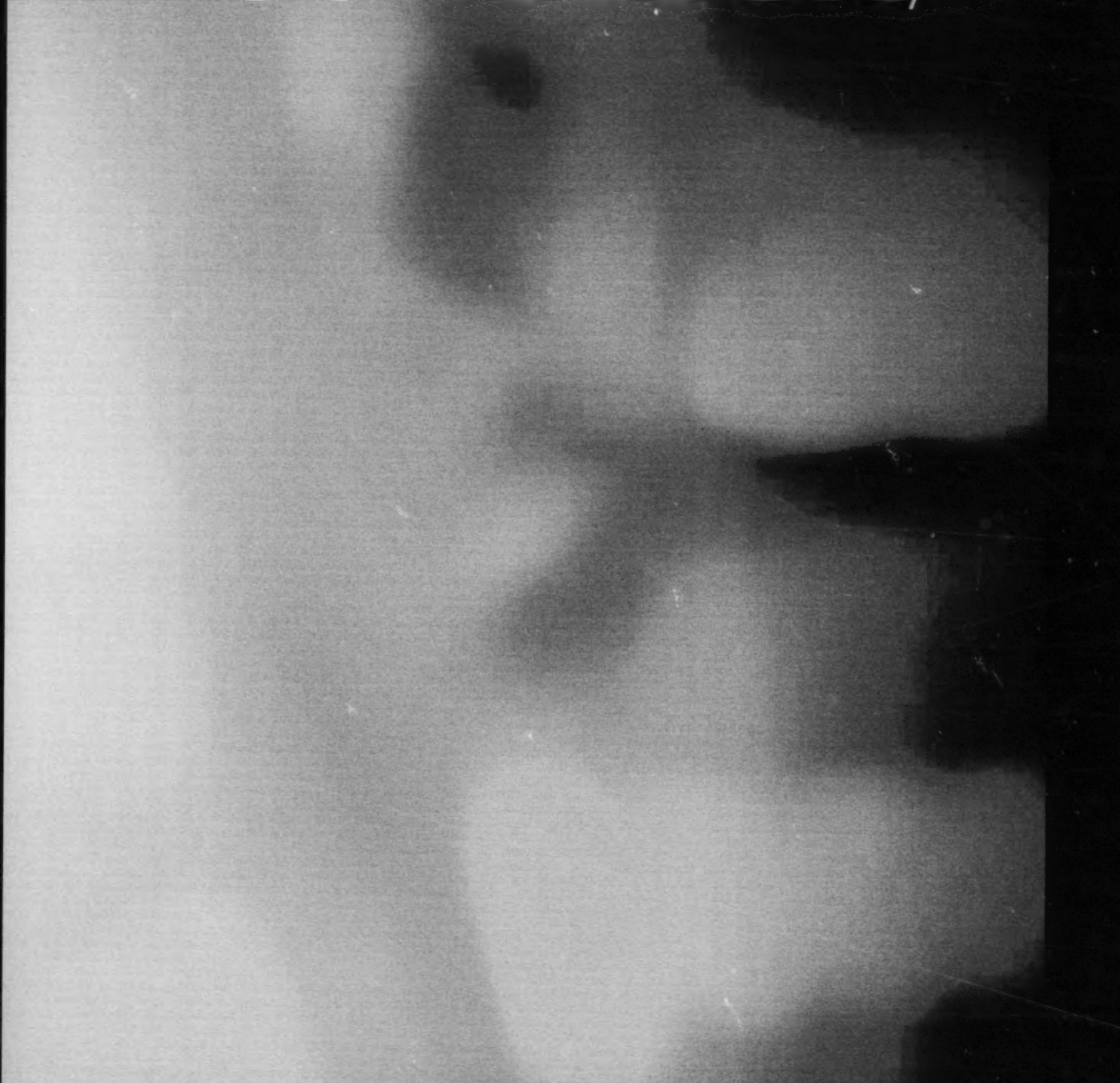
Privacy and Access to Information

The Commission continued to experience a steady number of requests under the *Access to Information Act* and *Privacy Act*. The thirty-day response time limit continued to be met for the majority of these requests. In addition, the Commission carried out early implementation of the Treasury Board Secretariat's new requirement (which will become mandatory in 2012 for all institutions subject to the *Access to Information Act*) to publish website summaries of completed access to information requests in both official languages.

Official Languages

As of December 2011, one hundred percent (100%) of personnel met the linguistic requirements of their positions. The Commission continues to support language training to help staff maintain and/or enhance their linguistic capacity in the second official language for personal and career development.

CONCLUSION *part*



4

“Where policing is concerned, confidence and trust in the police is critical to effective policing, which in turn is vital to preserving public safety.”

**The Honourable Patrick J. LeSage, Q.C., Retired Chief Justice,
Ontario Superior Court**

In the coming year, the Commission will continue to conduct fair, thorough and transparent investigations into conduct and interference complaints, and issue findings and recommendations aimed at promoting the highest standards of conduct of Military Police (MP) in the performance of policing duties and discouraging interference in any MP investigation.

The Commission will also continue to provide effective sound management of its human, financial and assets resources, as well as its compliance with applicable government legislation and policy requirements.

The Commission looks forward to the results of the Second Independent Review of the NDA Part IV.

In the year ahead, it is expected that the Commission will receive the Notice of Action in respect of the Afghanistan Public Interest Hearing and be able to issue its public Final Report.

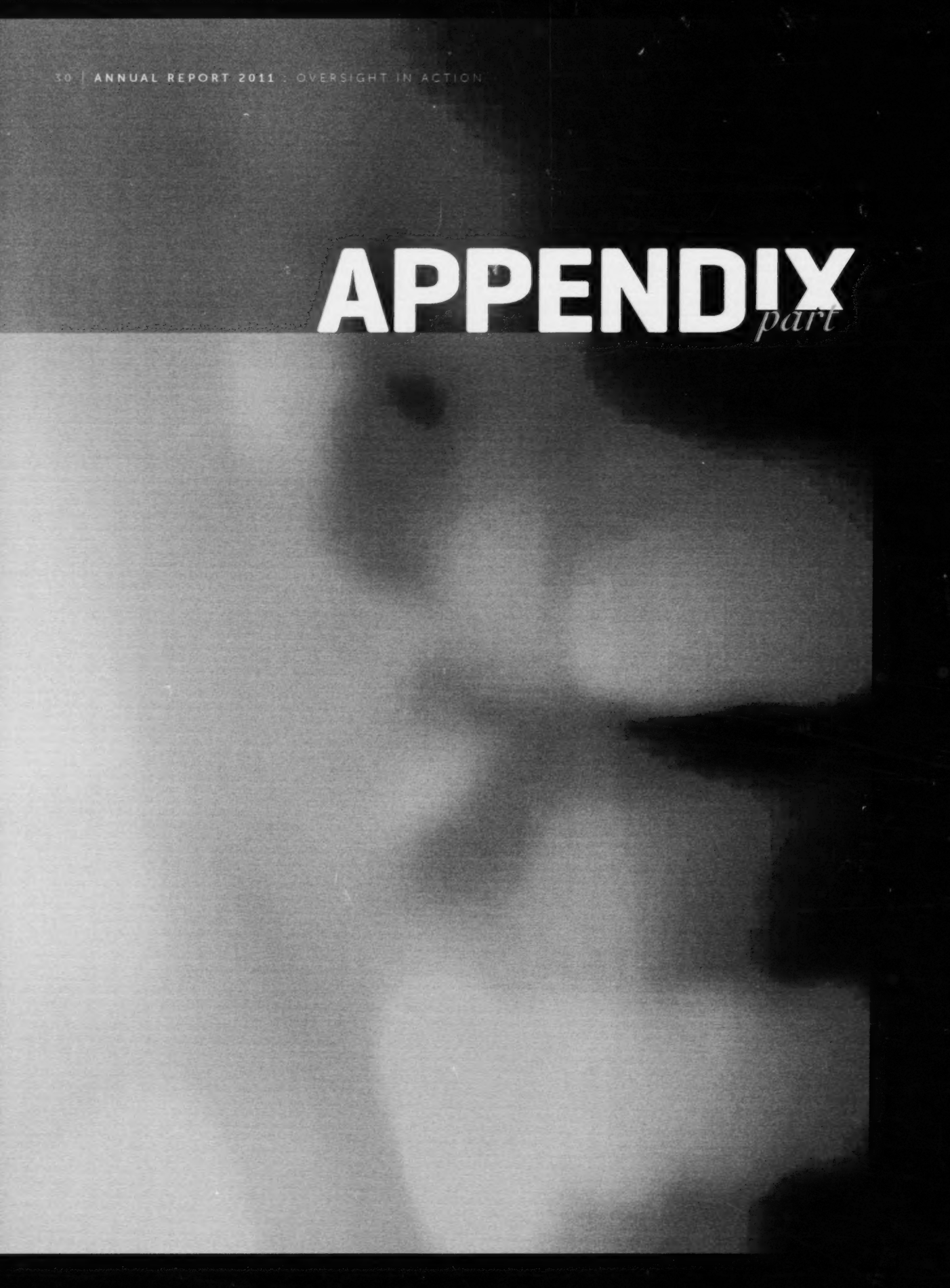
In 2012, the Commission will move forward with the Fynes Public Interest Hearing and advance numerous other conduct and interference complaint files.

Finally, we look forward to continuing to work collaboratively with the Department of National Defence leadership, the Canadian Forces Provost Marshal, the chain of command, and the MP community, as well as our partners and stakeholders.



The Commission envisions being an organization that exhibits fairness and impartiality, inspires trust and contributes to a climate of confidence in military policing.

APPENDIX *part*



5

*“Integrity, Fairness, Dedication,
Mutual Respect, Open and Effective
Communications and Professionalism”*

MPCC's values

Biography of Commission Chairperson

Glenn M. Stannard Chairperson

Born, raised and educated in Windsor, Ontario, Mr. Stannard served with its city police service for 37 years. During this time, he was promoted through the ranks and has worked in all divisions of the service. In August 1995, Mr. Stannard was promoted to Deputy Chief of Police, Administration. His dedication to the city and its citizens was recognized in 1999 with his appointment as its Chief of Police. Mr. Stannard is also a former president of the Ontario Association of Chiefs of Police (OACP) and lifetime member of the OACP and of the Canadian Association of Chiefs of Police. In 2003, he was invested into the Order of Merit of the Police Forces by the Governor General and received the Queen's Jubilee Award in 2005.

Mr. Stannard was appointed as a part-time Commission Member in September 2007 and as the MPCC Interim Chairperson in December 2009. He was appointed full-time Chairperson in June 2010. Mr. Stannard was a Panel member in the Afghanistan Public Interest Hearing (PIH) and presides over the Fynes PIH into the conduct of Military Police investigations related to the death of Corporal Stuart Langridge. Mr. Stannard has rendered decisions on numerous conduct and interference complaint files.

Biographies of Commission Members

Roy V. Berlinquette Member

Roy V. Berlinquette, a recognized team builder with 36 years of public service with the Royal Canadian Mounted Police (RCMP), emerged from an entry-level

position to senior executive levels in corporate, operational and administrative areas to Deputy Commissioner of the North West Region.

Mr. Berlinquette has acquired a wealth of knowledge and experience in his numerous years of dealing with government officials at municipal, provincial and federal levels, as well as fostering positive relations at the international level.

His recent accomplishments include being a six year member of the Office of the Oversight Commission on the Reform of the Police Service of Northern Ireland and researcher and co-author of the Jerusalem Old City Security Initiative. Mr. Berlinquette was appointed as a Member of the Commission in May 2007. Since that time, he has served as a Panel member on the Afghanistan PIH and has rendered decisions on numerous conduct and interference complaint files.

Louis Bélanger Member

Louis Bélanger is a Professor of International Relations in the Department of Political Science at Université Laval, Quebec City. From 2000 to 2005, Professor Bélanger was the Director of Université Laval's Quebec Institute for Advanced International Studies (HEI). He is the author of numerous publications on Canadian foreign policy, comparative foreign and trade policy, inter-American cooperation, and the politics of secession.

In 1998, Louis Bélanger was guest editorialist for international affairs for the newspaper *Le Devoir*. He has also been founding President of the Canadian chapter of the International Studies Association (2001-2002) and Editor of the academic quarterly *Études internationales* (1998-2000). Professor Bélanger held visiting positions at Duke University (Durham, NC), at SciencePo-Paris (Centre d'études et de recherches internationales), at the Woodrow Wilson International Center for Scholars, in

Washington, and, as a Canada-U.S. Fulbright Visiting Scholar, at the Paul H. Nitze School of Advanced International Studies (Johns Hopkins University).

He is a member of the Advisory Council on National Security. A graduate from Laval (Ph.D., 1996), Louis Bélanger also pursued Slavic Studies at the University of Ottawa. Mr. Bélanger served the Commission as a Member from May 2007 to April 2011.

Hugh R. Muir Member

Mr. Muir has been in policing for 40 years. He graduated from the Ontario Police College (OPC) in 1972 and attended the Toronto Police College and the OPC for further training. Mr. Muir was sworn in with the Toronto Metro Police Department in 1971 and served with the Force until 1979. Since 1979, he served with the Town of Stellarton, Nova Scotia (NS), where he was promoted through the ranks in different divisions up to the rank of Acting Chief of Police. He was invested as a Member of the Order of Merit for the Police Forces in 2007. He was also awarded the Police Exemplary Service Medal and two bars along with the Canadian Forces Decoration and 1st bar.

In addition to his police work, Mr. Muir acquired experience and received decorations and distinctions in the Canadian Forces. He served as a member of the Community Advisory Board of 144 Construction

Engineering Flight of the Royal Canadian Air Force in Nova Scotia and was an executive member and past president of Branch 34 of the Royal Canadian Legion.

Mr. Muir is an active member of the community in the County of Pictou, Nova Scotia. He was appointed as a Member of the Commission in December 2011.

Steven Chabot Member

Mr. Chabot's 33 year career in the Sûreté du Québec police force includes patrol, investigative and senior executive experience. He was successively appointed Captain in charge of Carcajou Squad, Assistant Deputy Director General and Deputy Director General in various branches of the Sûreté du Québec. He has acted as an advisor to the Quebec government on questions pertaining to public security and has a keen interest in the professionalization of police forces and professional ethics. Retired from the police force in 2010, Mr. Chabot was received by Her Excellency the Governor General of Canada, Officer of the Order of Merit of the Police Forces in 2006 and elevated in this Order at the rank of Commander in 2010.

Mr. Chabot holds a master's degree in Public Management from the École nationale d'administration publique (ENAP) and is fluent in both French and English. He was appointed as a Member of the Commission in December 2011.

How to reach the Commission

Call our information line:

613-947-5625 or toll-free at 1-800-632-0566 to speak to an intake officer.

Send us a fax:

613-947-5713 or toll-free at 1-877-947-5713

Send us a letter:

Military Police Complaints Commission, 270 Albert Street, 10th floor, Ottawa, ON K1P 5G8

Visit us at the above address for a private consultation – appointment recommended.

E-mail us:

commission@mpcc-cppm.gc.ca

Note: Please do not send confidential information via e-mail; we cannot guarantee the security of electronic communications at this time.

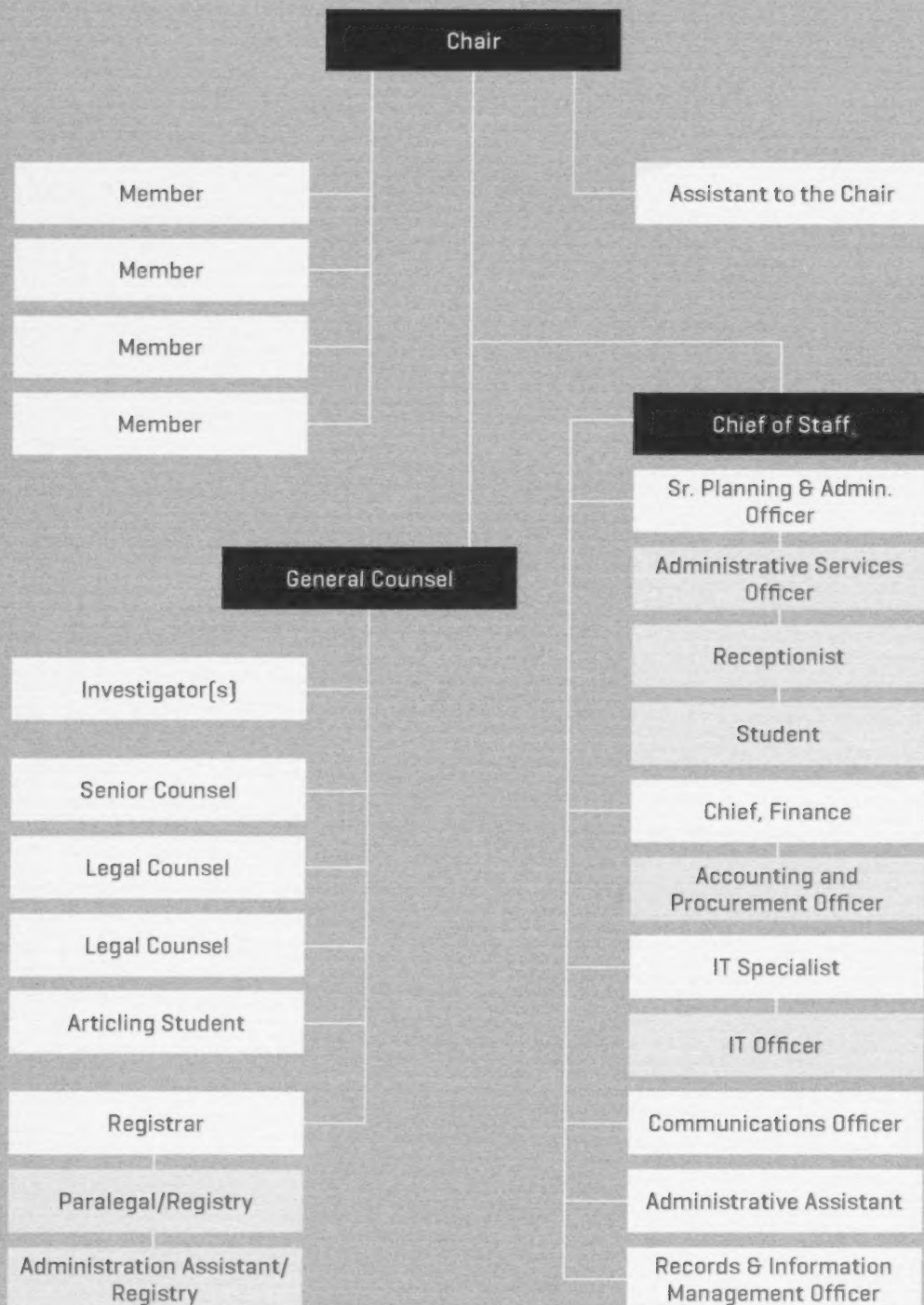
Visit our website:

mpcc-cppm.gc.ca

Media inquiries:

613-944-9349 or media@mpcc-cppm.gc.ca

Current Organization Chart





Departure – In memory of Corporal Randy Payne and
Corporal Matthew Dinning / Le Départ – à la mémoire du
caporal Randy Payne et du caporal Matthew Dinning.

Artist / Artiste : Silvia Pecota

